



National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0094]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Exemption for the Make Inoperative Prohibition to Accommodate People with Disabilities; OMB Control No. 2127-0635

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a reinstatement of a previously approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice (“30-day notice”) announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden and is a request for a reinstatement of a previously approved information collection regarding an exemption for the make inoperative prohibition to accommodate people with disabilities. The *Federal Register* notice with a 60-day comment period soliciting comments on the following information collection was published on January 12, 2022. NHTSA received one comment on the 60-day notice. The comment generally supported the information collection and further addressed broad issues not discussed in this ICR. Therefore, NHTSA has concluded that it is not necessary to make any changes to the information collection based on the comment received for the 60-day notice.

DATES: Comments must be submitted on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at www.reginfo.gov/public/do/PRAMain. To find this particular

information collection, select “Currently under Review – Open for Public Comment” or use the search function.

FOR FURTHER INFORMATION CONTACT:

For additional information or access to background documents, contact Gunyoung Lee, Office of Rulemaking (NRM230), 202-366-6005, Room W43-463, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590, Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted to the OMB.

A Federal Register notice with a 60-day comment period soliciting public comments on the following information collection was published on January 12, 2022 (87 FR 1829). NHTSA received one comment on the 60-day notice from the National Mobility Equipment Dealers Association (NMEDA). NMEDA generally supported the information collection and further addressed broad issues, such as managing the collected information to enhance the benefits for the public; suggesting a particular form for the information collection; and questioning the label requirement which is not subject to the information collection. NHTSA may consider those broad issues in determining the agency’s next steps regarding drivers and passengers with disabilities. However, the agency concluded that it is not necessary to make any changes to the information collection based on those broad issues not addressed in this ICR.

In a March 15, 2022 final rule (87 FR 14406), NHTSA provided a make inoperative exemption to rental companies to make inoperative a knee bolster air bag in order to permit the installation of hand controls to accommodate persons with physical disabilities. Regarding rental

vehicles, NHTSA solicited comment on a proposed modification to this collection of information as part of a Supplemental Notice of Proposed Rulemaking (SNPRM) published on December 28, 2020 (85 FR 84281). NHTSA received comments opposing a proposed requirement that a copy of a disclosure that the vehicle may no longer comply with all applicable FMVSSs be required to be provided in a modified rental vehicle be separately provided to a renter at the time of transaction and be retained by the rental company for a period of five years. As part of the SNPRM, NHTSA assumed that this would result in an estimated information collection burden of 1,333 hours (10 respondents x 400 responses per respondent x 0.333 hours to annotate the invoice).

NHTSA received eight comments on this proposed requirement. Five commenters supported the requirement. One commenter argued that this requirement was unnecessary because renters would already likely know that the vehicle would not comply with the FMVSSs. Two commenters, Enterprise Holdings Inc., and the American Car Rental Association opined that this requirement would result in significant expense. After considering these comments, NHTSA determined that this separate notification was unnecessary and duplicative of the disclosure that would be required to be placed in the vehicle itself. This change eliminated the entire proposed hour burden associated with the make inoperative exemptions, as they apply to rental companies.

Title: Exemption for the Make Inoperative Prohibition to Accommodate People With Disabilities.

OMB Control Number: 2127–0635.

Form Number: This collection of information uses no standard form.

Type of Request: Reinstatement of a previously approved collection of information.

Type of Review Requested: Regular.

Length of Approval Requested: Three (3) years from date of approval.

Summary of the Collection of Information:

The National Traffic and Motor Vehicle Safety Act (49 U.S.C. chapter 301) authorizes NHTSA to issue Federal motor vehicle safety standards (FMVSS) applicable to new motor vehicle and new items of motor vehicle equipment. In addition to regulating the manufacture and sale of new motor vehicles and items of motor vehicle equipment, the act also prohibits certain regulated entities from knowingly making inoperative a part of a device or element of design installed on or in a motor vehicle or motor vehicle in compliance with an applicable FMVSS (49 U.S.C. 30122). The statute authorizes the Secretary of Transportation (NHTSA) to prescribe regulations to exempt a regulated entity from the make inoperative provision if such an exemption is consistent with motor vehicle safety (49 U.S.C. 30122(c)(1)).

On February 27, 2001, NHTSA published a final rule (66 FR 12638) to facilitate the modification of motor vehicles so that persons with disabilities can drive or ride in them as passengers. In that final rule, the agency issued a limited exemption from a statutory provision that prohibits specified types of commercial entities from either removing safety equipment or features installed on motor vehicles pursuant to the Federal motor vehicle safety standards or altering the equipment or features to adversely affect their performance. The exemption is limited in that it allows repair businesses to modify only certain types of FMVSS-required safety equipment and features, under specified circumstances. The regulation is found at 49 CFR part 595 subpart C, “Vehicle Modifications to Accommodate People with Disabilities.” The regulation includes three collections of information: (1) a requirement for modifiers to submit identification information to NHTSA; (2) a requirement for modifiers to provide a document to the owner of the modified vehicle stating the exemptions used for that vehicle and any reduction in load carrying capacity of the vehicle of more than 100 kg (220 lbs); and (3) a requirement for rental companies and modifiers to retain a copy of the information provide to the owner or renter of the modified vehicle for five years.

Description of the Need for the Information and Proposed Use of the Information:

Commercial entities that modify vehicles after the first retail sale and wish to use the exemptions offered under this rule are required to provide NHTSA with their identification information. The registration involves a one-time submission using NHTSA's online Manufacturer Portal¹ containing only the name, address, and telephone number of the modifier and a prescribed statement that they will modify vehicles for persons with disabilities and intend to avail themselves of the exemptions. Any changes in the identification information must be conveyed to the agency within 30 days. The required information may be submitted using NHTSA's online Manufacturer Portal.² This information will be used by the agency to track entities involved in vehicle modification for persons with disabilities and is available to the public on NHTSA's website.

Modifiers must also provide each customer whose vehicle modification involves the use of the make inoperative exemptions with a list of the exemptions used in the process of modifying that vehicle.³ The simplest form of this document is an annotated invoice. No specific or special forms are required. A copy of this document must also be retained by the modifier for five years. This document will be used by the consumer to understand the modifications made to his/her vehicle and their effect on vehicle safety. Similarly, rental companies are required to retain documents related to the modification for a period of five years. It may be requested by NHTSA in the event of an inquiry about the safety of the modified vehicles.

Affected Public: Motor vehicle repair business and rental companies.

Estimated Number of Respondents: 765.

¹ NHTSA's Manufacturer's Portal is found at <https://vpic.nhtsa.dot.gov/mfrportal/>.

² *Id.*

³ 49 CFR 595.7(b) and (c).

For this estimate, NHTSA assumed that there are 900 businesses making vehicle modifications for people with disabilities, and 85 percent of these (i.e., 765 businesses) will elect to use the exemptions available under the rule.

Frequency: On occasion (e.g., a customer demands a vehicle modification to accommodate people with disabilities, or a company decides to become an adaptive vehicle modification business or changes its identification information).

Estimated Total Annual Burden Hours: 1,432.

This ICR is for three information collections. We estimate the total burden hours for this ICR to be 1,432. The burden hours for the three information collections were calculated as follows:

Information Collection 1: Requirement to Submit Identification Information to NHTSA to Use the Exemptions

NHTSA estimates that compiling and submitting the identification information will take approximately 10 minutes. NHTSA estimates that there are approximately 900 businesses making vehicle modifications for persons with disabilities in the United States and that 85 percent of these, or 765 businesses, will elect to use the exemptions available under the rule. After the initial registration (which occurred in 2001), NHTSA estimates that 90 businesses will either need to change their information or become new registrants who elect to use the exemptions each year. Therefore, NHTSA estimates the total burden hours associated with submitting new or updated identification information is 15 hours (90 business × 10 minutes).

To calculate the labor cost associated with submitting modifier identification information, NHTSA looked at wage estimates for the type of personnel involved with compiling and submitting the information. The Bureau of Labor Statistics (BLS) estimates that the average hourly wage for “General Office Clerks” (BLS Occupation code 43-9061) is \$16.98.⁴ The

⁴ See May 2020 National Occupational Employment and Wage Estimates, United States, available at https://www.bls.gov/oes/current/oes_nat.htm

Bureau of Labor Statistics estimates that private industry workers' wages represent 70.4% of total labor compensation costs.⁵ Therefore, NHTSA estimates the hourly labor costs to be \$24.12 for "General Office Clerks" (BLS Occupation code 43-9061). NHTSA estimates the total labor cost associated with the 15 burden hours (for submitting modifier identification by "office clerks") to be approximately \$362. ($15 \times \$24.12 = \361.80 .)

Information Collection 2: Requirement to Provide a Document to the Owner of the Modified Vehicle

The second information collection in part 595 is the requirement to provide a disclosure to the vehicle owner. This disclosure is made with each vehicle modified using exemptions under part 595. In the final rule, we anticipated that the least costly way for a repair business to comply with this portion of the new rule would be to annotate the vehicle modification invoice as to the exemption, if any, involved with each item on the invoice. The cost of preparing the invoice is not a portion of our burden calculation, as that preparation would be done in the normal course of business. Additionally, NHTSA's burden estimate does not include an estimate for the time to gather the information required for the disclosure as it is assumed that this information would be gathered in the normal course of vehicle modification. Instead, NHTSA estimates that the only extra burden would be incurred for calculation of the reduction in loading-carrying capacity and annotating the information on the invoice. NHTSA estimates the time needed to annotate the invoice is 20 minutes. NHTSA estimates that there are approximately 4,250 vehicles modified under exemptions provided by 49 CFR 595.7 each year. Therefore, NHTSA estimates the total burden associated with providing disclosures to vehicle owners is 1,417 hours ($20 \text{ minutes} \times 4,250 \text{ vehicles} = 1,416.67 \text{ hours}$).

⁵ See Table 1. Employer Costs for Employee Compensation by ownership (Mar. 2021), available at <https://www.bls.gov/news.release/ecec.t01.htm>

To calculate the labor cost associated with the 1,417 burden hours for the disclosure document requirement, NHTSA looked at the average hourly wage for “Mechanical Engineering Technicians” (BLS Occupation code 17-3027). With the BLS’s average hourly wage of \$28.00 (which represents 70.4% of total compensation according to the Bureau of Labor Statistics), NHTSA estimates the hourly labor costs to be \$39.78 for “Mechanical Engineering Technicians (BLS Occupation code 17-3027). Therefore, NHTSA estimates the total labor cost associated with the 1,417 burden hours (for providing disclosure documents to vehicle owners by “engineering technicians”) to be \$56,368 ($1,417 \times \$39.78 = \$56,368.28$).

Information Collection 3: Retaining a Copy of the Document Provided to Vehicle Owners

NHTSA estimates that there are no additional burden hours associated with the requirement to retain a copy of the disclosures provided to vehicle owners. Similarly, NHTSA estimates that there is no burden beyond the ordinary course of business associated with the requirement that rental companies retain records related to the modification for a period of five years. Accordingly, there are also no labor costs associated with this requirement.

Table 1 provides a summary of the estimated burden hours and labor costs associated with this collection of information request.

Table 1: Burden Estimates

	Annual Submissions or Responses	Estimated Burden Per Submission	Average Hourly Labor Cost	Labor Cost Per Submission	Total Burden Hours	Total Labor Costs
Modifier identification	90	10 minutes	\$24.12	\$4.02	15	\$362
Disclosure document (to vehicle owners)	4,250	20 minutes	\$39.78	\$13.26	1,417	\$56,368
Retention of a copy of document provided to	4,250	0 minutes	N/A	\$0.00	0	\$0.00

vehicle owner						
Annual total burden hours & labor costs					1,432	\$56,730

Estimated Total Annual Burden Cost: NHTSA estimates that there are no additional costs associated with this information collection request. There will be no additional material cost associated with complying with this requirement because no additional materials need to be used except those used to prepare the invoice in the normal course of business. We are assuming that it is normal and customary in the course of vehicle modification business to prepare an invoice, to provide a copy of the invoice to the vehicle owner, and to keep a copy of the invoice for five years after the vehicle is delivered to the owner in finished form.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.95, 501.5 and 501.8; and DOT Order 1351.29.

Milton E. Cooper,

Director, Rulemaking Operations.

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